

## CHAPTER NO. 660

## HOUSE BILL NO. 1901

**By Representatives Sands, Maddox, Odom, Kisber, Hargett, Buck**

**Substituted for: Senate Bill No. 324**

**By Senator Clabough**

AN ACT to amend Tennessee Code Annotated, Title 56, relative to insuring the public disclosure of information or documentation relating to the Department of Commerce and Insurance's supervision, rehabilitation or liquidation of an insurance company, health maintenance organization or other managed care organization primarily engaged in furnishing healthcare services under a publicly funded medical assistance program.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 56-9-202, is amended by designating current language of this section as subsection (a), and by adding the following language to be designated as follows:

(b) The provisions of subsection (a) shall not be applicable in any proceeding where the insurer on the date of the filing of the proceeding had derived fifty-one percent (51%) or more of its revenue for the past twelve (12) months from a contract or contracts with a governmental entity to provide health care services to enrollees in a publicly funded medical assistance program pursuant to Title 71. In these cases, the records of the insurer, other documents, and all insurance department files and court records and papers, so far as they pertain to, or are a part of, the record of the proceeding and which reflect the financial solvency of the insurer, shall be open to public inspection under the Tennessee Public Records Act promulgated at Section 10-7-503, et seq., unless otherwise required to be maintained as confidential under federal or state law. An insurer within fifteen (15) days from the date of seizure may apply to the court for a stay of application of this subsection, or for a protective order for particularized information which is proprietary in nature, the disclosure of which would be injurious to the rehabilitation of the insurer. The provisions of this subsection shall be stayed from the date of seizure until a court of competent jurisdiction rules on the application for a stay or a protective order.

SECTION 2. Tennessee Code Annotated, Section 56-9-504, is amended by adding the following as a new subsection:

( ) This section does not apply to hearing, notices, correspondence reports, records or other information obtained by the placing under supervision of any insurer who derived as of the date of the supervision fifty-one percent (51%) or more of its total revenues for the past twelve (12) months from a contract or contracts with a governmental entity to provide health care services to enrollees in a publicly funded medical assistance program pursuant to Title 71. In such cases, the hearings, notices, correspondence, reports, records, or other information which reflect the financial solvency of the insurer obtained during the supervision shall be open to the public under the Tennessee Public Records Act, promulgated at Section 10-7-503, et seq., unless

otherwise required to be maintained as confidential under the federal or state law. An insurer within fifteen (15) days from the notice of supervision may apply to the court for a stay of application of this subsection, or for a protective order for particularized information which is proprietary in nature, the disclosure of which would be injurious to the rehabilitation of the insurer. The provisions of this subsection shall be stayed from the notice of supervision until a court of competent jurisdiction rules on the application for a stay or a protective order.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.

**PASSED: April 17, 2002**



JIMMY NAIFEH, SPEAKER  
HOUSE OF REPRESENTATIVES



JOHN S. WILDER  
SPEAKER OF THE SENATE

**APPROVED this 24<sup>th</sup> day of April 2002**



DON SUNDQUIST, GOVERNOR